

## National Credit Union Administration

## § 797.19

nature and the amount of the adjustment and a point of contact for contesting such adjustment.

(2) Any negative adjustment to pay that arises from an employee's election of coverage or a change in coverage under a federal benefits program that requires periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less. However, at the time that such adjustment is made, NCUA shall provide the employee a statement that informs the employee of the previous overpayment.

### **§ 797.18 Notice requirements where NCUA is the creditor agency.**

Where NCUA seeks salary offset under *5 U.S.C. 5514* as the creditor agency, NCUA shall first provide the employee with a written Notice of Intent to Collect by Salary Offset (the Notice) at least 30 calendar days before salary offset is to commence. The Notice shall provide the following information:

(a) That the Executive Director has determined that a debt is owed to NCUA and intends to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest is paid in full or otherwise resolved;

(b) The amount of the debt and the factual basis for the debt;

(c) A salary offset schedule stating the frequency and amount of each deduction, stated as a fixed dollar amount or percentage of disposable pay not to exceed 15 percent;

(d) That in lieu of salary offset, the employee may propose a voluntary repayment plan to satisfy the debt on terms acceptable to NCUA, which must be documented in writing, signed by the employee and the Executive Director, and documented in NCUA's files;

(e) NCUA's policy concerning interest, penalties, and administrative costs, and a statement that such assessments must be made, unless excused in accordance with the FCCS;

(f) That the employee has the right to inspect and copy NCUA records related to the debt, or to receive copies of such records if personal inspection is impractical;

(g) That the employee has a right to request a hearing regarding the existence and amount of the debt claimed or the salary offset schedule proposed by NCUA, provided that the employee files a request for such a hearing with NCUA in accordance with § 797.20, and that such a hearing will be conducted by a hearing official not under the supervision or control of NCUA;

(h) The procedure and deadline for requesting a hearing, including the name, address, and telephone number of the Executive Director or other designated individual to whom a request for a hearing must be sent;

(i) That a request for hearing must be received by NCUA on or before the 30th calendar day following receipt of the Notice, and that filing of a request for hearing will stay the collection proceedings;

(j) That NCUA will initiate salary offset procedures not less than 30 days from the date of the employee's receipt of the Notice, unless the employee files a timely request for a hearing;

(k) That if a hearing is held, the hearing official will issue a decision at the earliest practical date, but not later than 60 days after the filing of the request for the hearing, unless the employee requests a delay in the proceedings which is granted by the hearing official;

(l) That any knowingly false or frivolous statements, representations, or evidence may subject the employee to disciplinary procedures appropriate under *5 U.S.C. chapter 75*, *5 CFR part 752*; penalties under the False Claims Act, *31 U.S.C. 3729* through *3731*; criminal penalties under *18 U.S.C. 286, 287, 1001, 1002*; or any other applicable statutory authority; and

(m) That the employee also has the right to request waiver of overpayment pursuant to *5 U.S.C. 5584*, and may exercise any other rights and remedies available under statutes or regulations governing the program for which the collection is being made.

### **§ 797.19 Review of NCUA records related to the debt.**

(a) An employee who desires to inspect or copy NCUA records related to the employee's debt must send a written request to the Executive Director